IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

LETTERS PATENT APPEAL No 201 of 1998

in

SPECIAL CIVIL APPLICATIONNo 8520 of 1997
With
CIVIL APPLICATION NO. 1819 OF 1998

For Approval and Signature:

HON'BLE MISS JUSTICE R.M.DOSHIT
and
HON'BLE MR.JUSTICE S.R.BRAHMBHATT

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

SBI
Versus
MULCHAND NAUTAMDAS SUKHWANI

Appearance:
1. LETTERS PATENT APPEAL No. 201 of 1998
MR PRANAV G DESAI for Appellant No.
MR PRAFUL J BHATT for Respondent No. 1
MR GAURANG K PATEL for Respondent No. 1

CORAM : HON'BLE MISS JUSTICE R.M.DOSHIT
and
HON'BLE MR.JUSTICE S.R.BRAHMBHATT

Date of decision: 12/01/2005

ORAL JUDGEMENT

(Per : HON'BLE MISS JUSTICE R.M.DOSHIT)

1. The Appellant - State Bank of India challenges the order dated 23rd January, 1998 made by the learned Single Judge in Special Civil Application No. 8520 of 1997.

2. The said Special Civil Application No. 8520 of 1997 was preferred by the appellant against the order dated 1st October 1997 made by the Central Industrial Tribunal at Ahmedabad in Reference (ITC) No. 18 of 1992. By the said order the preliminary issues whether the respondent was a workman as envisaged by section 2 (s) of Industrial Disputes Act, 1947 and whether the departmental inquiry held against the respondent was legal and proper were considered and decided against the appellant.

3. The Appeal requires to be dismissed. First: against the order made in exercise of power of superintendence conferred upon the High Court by Article 227 of the Constitution, appeal under clause 15 of the Letters Patent is not maintainable, and; second: as rightly observed by the learned Single Judge, the petition was preferred against the interlocutory order made on preliminary issues which could be challenged by the apepllant in case of the appellant losing before the Tribunal. Thus the learned Single Judge has reserved the liberty to the appellant to raise the issues raised in the writ petition in challenge to the final award, if any.

4. For the aforesaid reasons the Appeal is dismissed. There shall be no order as to cost.

5. In view of the order in Appeal, civil application stands dismissed. Interim relief stands vacated.

Dt: 12-1-2005 (MS. R.M. DOSHIT, J)

(S.R. BRAHMBHATT, J)

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